

House Bill 881 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 46<sup>th</sup>, Coleman of the 97<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Millar of the 79<sup>th</sup>, Everson of the 106<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
2 elementary and secondary education, so as to provide for legislative findings and intent; to  
3 provide for definitions; to establish the Georgia Charter Schools Commission; to provide for  
4 its powers and duties; to provide for commission charter schools; to provide for cosponsors;  
5 to provide for petitions and review; to provide for petitions from existing charter schools; to  
6 provide for access to information for parents; to provide for an annual report; to provide for  
7 debts of commission charter schools; to provide for funding for commission charter schools;  
8 to provide for collaboration by the commission with the Department of Education; to provide  
9 for rules and regulations; to provide for application of general charter school laws; to  
10 provide for retention of administrative fees by a local board of education for newly approved  
11 local charter schools; to provide for additional QBE funding for full-time equivalent students  
12 in system charter schools; to include such amount in the total state funds allotted to a school  
13 system; to provide for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
17 secondary education, is revised by adding a new article to read as follows:

18 "ARTICLE 31A

19 20-2-2080.

20 (a) The General Assembly finds that:

21 (1) Charter schools are a critical component in this state's efforts to provide efficient and  
22 high-quality schools within this state's uniform system of public education;

(2) Charter schools provide valuable educational options and learning opportunities while expanding the capacity of this state's system of public education and empowering parents with the ability to make choices that best fit the individual needs of their children; and

(3) The growth of charter schools in this state has contributed to enhanced student performance, greater efficiency, and increased parental satisfaction.

(b) It is the intent of the General Assembly that:

(1) There be established a state-level commission whose primary focus is the development and support of charter schools in order to better meet the growing and diverse needs of some of the increasing number and array of charter schools in this state and to further ensure that charter schools of the highest academic quality are approved and supported throughout the state in an efficient manner; and

(2) New sources of community support from cosponsors should be authorized to participate in developing and supporting charter schools, with the goal of maximizing access to a wide variety of high-quality educational options for all students regardless of disability, race, or socioeconomic status, including those students who have struggled in a traditional public school setting.

20-2-2081.

As used in this article, the term:

(1) 'Commission' means the Georgia Charter Schools Commission established pursuant to Code Section 20-2-2082.

(2) 'Commission charter school' means a charter school authorized by the commission pursuant to this article whose creation is authorized as a special school pursuant to Article VIII, Section V, Paragraph VII of the Constitution. A commission charter school shall exist as a public school within the state as a component of the delivery of public education within Georgia's K-12 education system.

(3) 'Cosponsor' means a municipality, county, consolidated government, university or college of the board of regents, technical institution of the Department of Technical and Adult Education, or regional educational service agency which has been authorized by the commission pursuant to Code Section 20-2-2083.

(4) 'Department' means the state Department of Education.

The definitions set forth in Code Section 20-2-2062 shall be applicable to this article.

20-2-2082.

(a) The Georgia Charter Schools Commission is established as a state-level charter school authorizing entity working in collaboration with the Department of Education. Startup

1 funds necessary to establish and operate the commission may be received by the State  
2 Board of Education in addition to such other funds as may be appropriated by the General  
3 Assembly. The department shall assist in securing federal and other institutional grant  
4 funds to establish the commission.

5 (b) The commission shall be appointed by the State Board of Education and shall be  
6 composed of a total of seven members and made up of three appointees recommended by  
7 the Governor, two appointees recommended by the President of the Senate, and two  
8 appointees recommended by the Speaker of the House of Representatives. The Governor,  
9 the President of the Senate, and the Speaker of the House of Representatives shall each  
10 recommend a list of no fewer than two nominees for each appointment to the commission.  
11 The appointments shall be made as soon as feasible but no later than September 1, 2008.  
12 Each member shall serve a term of two years; however, for the purpose of providing  
13 staggered terms, of the initial appointments, three members shall be appointed to one-year  
14 terms and four members shall be appointed to two-year terms as determined by the State  
15 Board of Education. Thereafter, each appointee shall serve a two-year term unless the  
16 State Board of Education, after review and upon recommendation by the initial  
17 recommending authority, extends the appointment. If a vacancy occurs on the commission,  
18 it shall be filled by the State Board of Education from a recommendation by the appropriate  
19 authority according to the procedure set forth in this subsection. The members of the  
20 commission shall annually vote to appoint a chairperson and a vice chairperson from  
21 among its membership. Each member of the commission shall hold a bachelor's degree  
22 or higher, and the commission should include a group of diverse individuals representative  
23 of Georgia's school population who has experience in finance, administration, law,  
24 education, public school teaching, and school governance.

25 (c) The commission is encouraged to convene its first meeting no later than October 1,  
26 2008, and thereafter shall meet at least bimonthly at the call of the chairperson or upon the  
27 request of four members of the commission. Four members of the commission shall  
28 constitute a quorum.

29 (d) The commission shall determine the manner in which it reviews commission charter  
30 school petitions and may, in its discretion, use existing department personnel to conduct  
31 such review.

32 (e) The members of the commission shall not be compensated for their services on the  
33 commission but may be reimbursed for per diem and travel expenses in the same manner  
34 as provided for in Code Section 45-7-21.

35 20-2-2083.

36 (a) The commission shall have the power to:

(1) Approve or deny petitions for commission charter schools and renew, nonrenew, or terminate commission charter school petitions in accordance with State Board of Education rules and regulations established pursuant to this article. At its discretion, the commission may preliminarily approve a charter petition for a commission charter school before the petitioner has secured space, equipment, or personnel, if the petitioner indicates such preliminary approval is necessary for it to raise working capital. The State Board of Education may overrule the approval, denial, renewal, nonrenewal, or termination of a commission charter school by the commission within 60 days of such decision by the commission upon a vote of at least two-thirds of the members of the state board; provided, however, that a commission charter school petitioner may re-apply to the commission for approval or renewal after remedying any deficiencies cited by the State Board of Education;

(2) Authorize cosponsors of commission charter schools; and

(3) Conduct facility and curriculum reviews of commission charter schools.

(b) The commission shall have the following duties:

(1) Review charter school petitions for commission charter schools and assist in the establishment of commission charter schools throughout this state. The commission shall ensure that all charters for commission charter schools are consistent with state education goals;

(2) Develop, promote, and disseminate best practices for charter schools and charter school cosponsors in order to ensure that high-quality charter schools are developed and encouraged. At a minimum, the best practices shall encourage the development and replication of academically and financially proven charter school programs;

(3) Develop, promote, and require high standards of accountability for commission charter schools. The commission shall ensure that each commission charter school participates in the state's education accountability system. If a commission charter school falls short of performance measures included in the approved charter, the commission shall report such shortcomings to the Department of Education;

(4) Monitor and annually review the performance of cosponsors;

(5) Monitor and annually review and evaluate the academic and financial performance, including revenues and expenditures, of commission charter schools and hold the schools accountable for their performance pursuant to the charter and to the provisions of this article. The commission's duties to monitor the charter school shall not constitute the basis for a private cause of action;

(6) Report to each local school system the number of students who reside in such school system and are enrolled in a commission charter school;

- 1 (7) Work with its cosponsors to monitor the financial management of each commission  
2 charter school;
- 3 (8) Direct charter schools and persons seeking to establish charter schools to sources of  
4 private funding and support;
- 5 (9) Actively seek, with the assistance of the department, supplemental revenue from  
6 federal grant funds, institutional grant funds, and philanthropic organizations. The  
7 commission may, through the State Board of Education, receive and expend gifts, grants,  
8 and donations of any kind from any public or private entity to carry out the purposes of  
9 this article;
- 10 (10) Review and recommend to the General Assembly any necessary revisions to  
11 statutory requirements regarding standards and accountability for commission charter  
12 schools;
- 13 (11) Act as liaison for cosponsors and commission charter schools in cooperating with  
14 local boards of education that may choose to allow commission charter schools to utilize  
15 excess space within school facilities;
- 16 (12) Collaborate with cosponsors for the purpose of providing the highest level of public  
17 education to all students, including, but not limited to, low-income, low-performing,  
18 gifted, and underserved student populations and to students with special needs. Such  
19 collaborations shall:
- 20 (A) Allow universities and colleges of the board of regents and technical institutions  
21 of the Department of Technical and Adult Education that cosponsor commission charter  
22 schools to enable students attending a commission charter school to take college  
23 courses and receive high school and college credit for such courses; and
- 24 (B) Assist in determining the feasibility of establishing commission charter schools for  
25 students with disabilities;
- 26 (13) Meet the needs of commission charter schools and local school systems by  
27 uniformly administering high-quality commission charter schools, thereby removing  
28 administrative burdens from the local school systems;
- 29 (14) Assist commission charter schools in negotiating and contracting with local boards  
30 of education that choose to provide certain administrative or transportation services to the  
31 charter schools on a contractual basis; and
- 32 (15) Provide training for members of commission charter school governing bodies after  
33 approval of the charter school. The training shall include, but not be limited to, best  
34 practices on charter school governance, the constitutional and statutory requirements  
35 relating to public records and meetings, and the requirements of applicable statutes and  
36 State Board of Education rules.

1 20-2-2084.

2 (a) The commission shall begin accepting applications to act as cosponsors no later than  
3 January 31, 2009. The commission shall review and evaluate all applications in accordance  
4 with commission rules and regulations established pursuant to this article to encourage  
5 technical assistance, academic support, curriculum review, financial assistance, or other  
6 support from cosponsors.

7 (b) Cosponsors shall have no authority to authorize charter schools. Cosponsors may  
8 partner with charter petitioners and the commission to provide community support for the  
9 proposed charter school. This support may include technical assistance, academic support,  
10 curriculum review, financial assistance, or other support as agreed to between the  
11 cosponsor and the commission charter school.

12 (c) Upon approval of a cosponsor, the commission and the cosponsor shall enter into an  
13 agreement that defines the cosponsor's rights and obligations.

14 20-2-2085.

15 (a) Charter school petitions submitted to the commission shall be subject to State Board  
16 of Education rules and regulations established pursuant to this article and as otherwise  
17 applicable to charter schools.

18 (b) A petitioner for a commission charter school shall submit a petition for a start-up  
19 charter school to the local board of education in which the school is to be located and to  
20 each local school system from which the commission charter school plans to enroll students  
21 prior to or concurrently with a corresponding petition to the commission unless the  
22 proposed commission charter school plans to enroll students from five or more counties;  
23 provided, however, that the commission shall not act on the commission charter school  
24 petition until the local board of education or local boards of education have had the  
25 opportunity to approve or deny the petition for a start-up charter school in accordance with  
26 State Board of Education rules and regulations. Local board of education approval or  
27 denial of a start-up charter school petition shall not preclude the petitioner from seeking  
28 authorization from the commission. A petitioner shall not be required to seek authorization  
29 from the commission for a commission charter school if the local board of education or  
30 local boards of education approve the petition for a start-up charter school; provided,  
31 however, that such start-up charter school shall be governed by Article 31 of this chapter.  
32 The commission shall take into consideration any support or opposition by the local board  
33 of education or local boards of education on a start-up charter school petition when it votes  
34 to approve or deny a corresponding commission charter school petition.

1 20-2-2086.

2 A petition may be submitted pursuant to this Code section by an existing charter school  
3 approved by a local board of education or the State Board of Education provided that the  
4 obligations of its charter with the local board of education or State Board of Education will  
5 expire prior to entering into a new charter with the commission. A local board of education  
6 or the State Board of Education in the case of a state chartered special school may agree  
7 to rescind or waive the obligations of a current charter to allow a petition to be submitted  
8 by an existing charter school pursuant to this Code section. An existing charter school that  
9 is established as a commission charter school pursuant to this Code section shall be allowed  
10 to continue the use of all facilities, equipment, and other assets it used prior to the  
11 expiration or rescission of its charter with a local board of education.

12 20-2-2087.

13 The commission shall provide maximum access to information regarding commission  
14 charter schools to all parents in this state. It shall maintain information systems, including,  
15 but not limited to, a user-friendly Internet website, that will provide information and data  
16 necessary for parents to make informed decisions. At a minimum, the commission shall  
17 provide parents with information on its accountability standards, links to commission  
18 charter schools throughout this state, and public education programs concerning  
19 commission charter schools.

20 20-2-2088.

21 Each year, the chairperson of the commission shall appear before the State Board of  
22 Education and submit a report regarding the academic performance and fiscal responsibility  
23 of all commission charter schools and cosponsors approved under this article.

24 20-2-2089.

25 If a charter is not renewed or is terminated, the commission charter school shall be  
26 responsible for all debts of such charter school. The local school system may not assume  
27 the debt from any contract for services made between the governing body of the  
28 commission charter school and a third party, except for a debt for which the local school  
29 system has agreed upon in writing to assume responsibility.

30 20-2-2090.

31 (a) The Department of Education shall pay to each commission charter school through  
32 appropriation of state and federal funds an amount equal to the sum of:

(1) QBE formula earnings, QBE grants, and federal grants earned by the commission charter school based on the school's enrollment, school profile, and student characteristics. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, and earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development. For purposes of this paragraph, QBE formula earnings shall not include the additional amount provided for in Code Section 20-2-165.1 earned by a charter system for full-time equivalent students in its schools;

(2) A proportional share of state categorical grants, nonQBE state grants, state equalization grants, and all other state and federal grants; and

(3)(A) An amount determined by the commission for each student enrolled in such school equal to a proportional share of local revenue from the local school system in which the student attending the commission charter school resides; provided, however, that the commission may reduce the amount calculated pursuant to this paragraph based on factors that affect the cost of providing instruction.

(B) In making the funding determination required pursuant to this paragraph, the commission shall take into account the following factors:

(i) In the case of a commission charter school that draws students from multiple school systems, the commission shall take into account the actual costs of operating such a commission charter school and any efficiencies gained by using an expanded attendance zone; and

(ii) In the case of a commission charter school that plans to offer virtual instruction, the commission may reduce the amount calculated pursuant to this paragraph based on the factors specified in subparagraph (A) of this paragraph.

(b) The department may withhold up to 3 percent of the amount determined pursuant to subsection (a) of this Code section for each commission charter school for use in administering the duties required pursuant to Code Section 20-2-2083; provided, however, that any amount withheld pursuant to this subsection shall be spent solely on expenses incurred by the commission in performing the duties required by this article.

(c) The total allotment of state and federal funds to the local school system in which a student attending a commission charter school resides shall be calculated as otherwise provided in Article 6 of this chapter with an ensuing reduction equivalent to the amount of state and federal funds appropriated to the commission charter schools pursuant to subsection (a) of this Code section.



(d) For purposes of funding students enrolled in commission charter schools in the first year of such charter school's operation and prior to the initial student count, the department shall calculate and distribute the funding for the commission charter school on the basis of its projected enrollment according to an enrollment counting procedure or projection method stipulated in the terms of the charter. After the initial student count during the first year of such commission charter school's operation and in all years of operation thereafter, each commission charter school's student enrollment shall be based on the actual enrollment in the current school year according to the most recent student count. Nothing in this Code section shall be construed to require the department to conduct more than two student counts per year.

20-2-2091.

The commission shall work in collaboration with the department on all matters related to charter authorizing and shall be assigned to the department for administrative purposes only, as prescribed in Code Section 50-4-3. For administrative purposes, including data reporting, student enrollment counting procedures, student achievement reporting, funding allocations, and related purposes as defined by the State Board of Education, commission charter schools should, consistent with department rules and regulations, be treated as contained within a single, state-wide local education agency. This local education agency shall be administered by the Department of Education, which shall ensure that commission charter schools receive the support required by this article, including, but not limited to, establishing procedures to ensure that commission charter schools receive the funding required by Code Section 20-2-2090.

20-2-2092.

The commission and the State Board of Education, as appropriate, shall adopt rules and regulations necessary to facilitate the implementation of this article. Except as otherwise provided in this article, any rules and regulations adopted by the State Board of Education pursuant to this article, to the extent practicable, shall be established in the same manner as for state chartered special schools under Article 31 of this chapter."

## SECTION 2.

Said chapter is further amended in Code Section 20-2-2068.1, relating to application of the Quality Basic Education Formula, grants, local tax revenue, and funds from local bonds, by adding a new subsection to read as follows:

"(c.2) For newly approved local charter schools, including charter renewals, the local board of education may retain an amount of the charter school's per pupil share of state and local

1 funding not to exceed 3 percent of the total funds earned by the charter school to reimburse  
2 the local school system for administrative services actually provided to the charter school."

3 **SECTION 2A.**

4 Said chapter is further amended in Part 4 of Article 6, relating to financing under the  
5 "Quality Basic Education Act," by adding a new Code section to read as follows:

6 "20-2-165.1.

7 In addition to the amounts earned by a charter system pursuant to subsection (b) of Code  
8 Section 20-2-161, a charter system shall earn 3.785 percent of the base amount established  
9 pursuant to subsection (a) of Code Section 20-2-161 for each full-time equivalent student  
10 in each school within the charter system."

11 **SECTION 2B.**

12 Said chapter is further amended in Code Section 20-2-166, relating to the calculation,  
13 allotment, and distribution of state funds, by revising subsection (a) as follows:

14 "(a) The State Board of Education shall calculate the total amount of state funds to be  
15 allotted to a local school system by:

16 (1) Adding the amount calculated for the local school system for grants authorized under  
17 the provisions of this article which do not expressly involve a local share, except the state  
18 school lunch grant pursuant to Code Section 20-2-187, to the amount calculated for the  
19 local school system for the Quality Basic Education Formula pursuant to subsection (d)  
20 of Code Section 20-2-161;

21 (2) Subtracting the amount of funds required by the local school system for local five  
22 mill share pursuant to Code Section 20-2-164 from the sum in paragraph (1) of this  
23 subsection; ~~and~~

24 (3) Adding any equalization grant which may be earned pursuant to subsection (c) of  
25 Code Section 20-2-165, the state school lunch grant pursuant to Code Section 20-2-187,  
26 and the portion to be paid from state funds for all grant programs authorized by this  
27 article which involve a local share, except the Quality Basic Education Formula, to the  
28 difference in paragraph (2) of this subsection, the result being the amount of state funds  
29 which the state board shall allot over the course of the fiscal year to the local school  
30 system, except that the amount of state funds allotted may be increased by the midterm  
31 adjustment as provided in Code Section 20-2-162. The state board shall, to the extent  
32 necessary, reduce the amount of state funds to be allocated to local school systems in  
33 support of the Quality Basic Education Program or in support of any of the purposes for  
34 which state funds might be allotted to local school systems under this article if the  
35 amount of state funds appropriated in support of such program or in support of any one

1 or more of the purposes for which allotments of funds are provided by this article is not  
2 adequate to finance the cost of the state portion of such program or such purposes,  
3 determined in accordance with this article-; and

4 (4) If a charter system, adding any additional amount which may be earned pursuant to  
5 Code Section 20-2-165.1."

6 **SECTION 3.**

7 All laws and parts of laws in conflict with this Act are repealed.